

Town of Lincoln
100 Old River Road, Lincoln RI
Zoning Board of Review

April 7, 2009 Minutes

Present: Jina Karampetsos Chair, David Gobeille, Lee Blais, Raymond Trabulsi, David DeAngelis, Attorney Joelle C. Sylvia (Town Solicitor Office)

Excused: John Bart

Chair welcomed Raymond Trabulsi and David DeAngelis as new alternate members of the Board sitting on all applications this evening.

Minutes

Motion made by Member Gobeille to accept the March 3, 2009 minutes as presented. Motion seconded by Member Blais. Motion carried with a 5-0 vote.

Correspondence

No correspondence.

Applications:

Andover Way d/b/a Storage America, 3900 NW 2nd Avenue, Miami, FL

– Application for Special Use Permit for the installation of signage on property located at 100 Higginson Ave, Lincoln, RI.

AP 1, Lot 133 Zoned: MG 0.5

Represented by: Rhonda Hiltz, Representative of Owner

This applicant has been continued from past agendas due to notice and quorum problems. Chair Karampetsos recused herself from the application at the last meeting as she rents space from the applicant. She informed applicant that if she recuses herself again a quorum would not be present. If applicant agrees to “Rules of Necessity” she can sit on the application. Applicant agreed to Rules of Necessity.

Applicant requires a Special Use Permit because of code enforcement issues for signage that need to be addressed. She would like to withdraw this application without prejudice and submit a new Special Use application. Because May and June agendas are full, the new application would have to be heard at the July meeting. Russell Hervieux, Zoning Official informed the applicant and the Board that a new application would invoke violation notices to be issued. A modified application would stay the violation process. The modified application needs to be filed before June 2009.

Motion made by Member Blais to continue the application to the July agenda allowing applicant sufficient time to prepare and submit a modified Special Use application. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Rhodes Martial Trust, 987 Great Road, Lincoln, RI – Application for Dimensional Variance seeking side yard setback and height relief to increase existing barn size.

AP 23, Lot 2 Zoned: RS 20 & RA 40

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Dimensional Variance.

Applicant asked to amend the application to include a new site plan (Exhibit #1) which no longer requires a subdivision and Planning Board approval on this lot. They will be doing an administrative subdivision on the other lot not part of this application. Existing barn at the site will be razed and a new barn constructed to save a tree. Letters from abutters (Exhibit #2) duly signed and notarized were submitted into the record stating they have no objection to what is being proposed.

Witness

Edward Pimentel

Mr. Pimentel has testified before this Board as an expert in the past and submitted his report into the record as Exhibit #3. Motion made by Member Blais to accept Mr. Pimentel as an expert witness. Motion seconded by Member DeAngelis and carried with a 5-0 vote.

Property is located in a split zone and applicant and family members are abutters. They are asking for side and rear yard deviation. Barn was built in the early 1900s. A shed on site will be removed. Existing house will be renovated and barn will be demolished and rebuilt. A historical tree is located on site that will not need to be removed if driveway stays as is. New barn height will be lowered from 26 feet to 25 feet. In Mr. Pimentel's opinion all burdens have been met and majority of homes in the area have accessory structures. New barn style will be same as existing one and storage will be located at upper floor. Member Blais wanted to know more about how hardship was due to the unique characteristics of the land and would like to see evidence to support historical nature of the tree and the need not to cut it down. Mr. Pimentel replied that the location of barn structure is the uniqueness and has been there for 110 years. Barn is being voluntarily razed so another similar structure can be built. Once the barn is demolished it will be a vacant lot as the house is to be razed as part of the renovations. Applicant wants to keep configuration of driveway as it is. New barn will be used to house vehicles (truck/cars/motorcycles) and storage. If driveway is moved portion of the old area could be green. Moving the barn to inside the setbacks would require it to be in middle of lot. It is not customary to place barns in the middle of lots.

Witness

Margaret Truesdale (Trustee and Applicant), 991 Great Road, Lincoln,

RI

Submitted photos of tree, barn and house at site into the record as Exhibit #4. Seven generations of family have lived on the site. Existing barn is 36 feet wide and 21 feet deep. Husband's truck does not fit into the barn and there is need to increase depth by nine feet. Existing barn has dirt floor with no foundation and is beyond repair. Maple tree is located about ten feet from side of barn. She spoke with neighbors about the situation and they have no objections. No blueprints have been drawn up but submitted into the record sample floor plan as Exhibit #5.

Russell Hervieux, Zoning Official addressed the Board and stated what the applicant needs is 10.50 height relief, 31.10 feet rear yard and 32.47 feet southeast side relief for the proposed barn.

In favor:

Deb Archambault, 989 Great Road, Lincoln, RI

Has lived in area for ten years. Loves the barn where it is.

Todd Tucker, 806 Great Road, Lincoln, RI

Likes barn where it is. If barn moved may impact the area.

Donald & Susan Haining, 993 Great Road, Lincoln, RI

She is sister of applicant and feels tree should not be removed.

Mary Anne Canning

Tree should not be removed as it adds value to other properties in the area.

Board Discussion:

Member Blais would like to see an additional site plan addressing the unique characteristic issue. Chair agreed with Member Blais. She viewed the property but because of the relief requested and burdens would also like to see a new site plan showing tree and barn location along with setbacks. She recommended continuing the application and have applicant submit new site plan for Board review.

Attorney Shekarchi asked if the application could be listed on the May agenda allowing applicant sufficient time to prepare new site plan showing: location of tree; proposed driveway location if moved; and present an expert regarding historical value of the maple tree. Russell Hervieux replied that zoning ordinance limits number of applications heard to eight and stated the Board could make an exception hearing nine applications and Chair replied there was acceptable. He further asked if Planning Board and Technical Review Committee needed to review the new site plan. Attorney Shekarchi replied that was not necessary.

Motion made by Member Blais continuing the application to the May agenda. Motion seconded by Member Trabulsi. Motion carried with a 5-0 vote.

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Use Variance for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use in Zone A of CR 2 for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Use Variance for height relief of a 100 foot flagpole type monopole telecommunications tower for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Dimensional Variance for height relief for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Dimensional Variance seeking rear yard relief for the installation of a

100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Represented by: John Shekarchi, Esquire and Jackie Slaga, Esquire

Attorney Shekarchi informed the Board that the Dimensional Variance seeking height relief was being withdrawn. Height relief to be included with Use Variance for Zone A of CR2 zone per Town Solicitor.

Russell Hervieux, Zoning Official addressed the Board stating one notice was returned. He checked Town Hall records and address is what is on file. Proper notice served.

Chair read into the record standards that need to be met for both Dimensional Variance and Use Variance.

Applicant is FCC approved (FCC License submitted as Exhibit #1) and is under contract to install a telecommunication tower at the rear of Lime Rock Fire Station at 20 Twin River Road. New communication pole would be 100 feet tall keeping with other structures in the area. State Police barracks tower is higher than what is being proposed tonight.

Witness

George Valentine, Newport Appraisal Group

He has never testified before this Board but has testified as an expert in other communities. Submitted report with attached resume as Exhibit #2. Motion made by Member Gobeille to accept him as an expert witness. Motion seconded by Member DeAngelis. Motion carried with a 5-0 vote.

He is familiar with the site. Fire station sits on ½+ acres and is circa 1959. Surrounding area consists of Twin River Casino, CCRI and Lincoln Woods state park. Area has mixed uses including single family residences. What is proposed will not affect value of surrounding area and meets use and dimensional burdens. Proposed site will meet coverage issues. A 100 foot tower is the least relief necessary and this is the only site available for the proposed use.

Witness

Chief Frank M. Sylvester, Lime Rock Fire Station

The station currently has two outdated antennas on the building. If approved station could remove these two antennas and use the tower for communication. Lime Rock consists of twelve square miles and they provide mutual aid to other communities. The new antennas would provide larger communication range when out providing assistance. There will be no charge for the station to use the tower. Existing antennas have dead zones.

Witness

Josh Delmond, Metro PCS

He searches for possible sites to install towers/antennas. In August of 2007 he was asked to identify sites in this area with existing structures. He worked with State Police to install antennas at their Lincoln barracks but in August of 2008, State Police indicated their site was no longer available. Looked at CCRI and COX Cable as possible sites and then contacted Chief Sylvester. No other sites in area met their requirements.

Witness

Ram Satyaprasad, PE, Bay State Design

He has nine years designing experience and been in the wireless industry for 15+ years. Once a site has been identified he does a site visit and prepares drawings. Monopole will be grounded 2-3 feet below ground to avoid lightning strikes. There will be no structural damage if monopole is ever struck. Pole height of 100 feet is least relief necessary.

Witness

Sameer Parakkavetz, Metro PCS

He is a radio frequency engineer. Did not have a resume available for review by the Board. Motion made by Member DeAngelis to accept

him as an expert witness. Motion seconded by Member Blais. Motion carried with a 5-0 vote.

Software is used to calculate coverage area using advanced wireless frequencies 21-25 megahertz. Showed Board members green color coded map indicating dead zones and proposed coverage areas. Objective is to cover Route 146 area. They operate within FCC limits and pose no health dangers. Proposed monopole will not interfere with competitor services. Two additional antennas could be added to the pole in the future by other carriers below the 90 foot height. This is the best site available. Metro is not party to any complaints about carrier interference.

Chair read into the record Technical Review Committee recommendations:

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Use Variance for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use in Zone A of CR 2 for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Planning

Board recommends Approval of this application for a use variance for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use in Zone A of CR 2 for property located at 20 Twin River Road, Lincoln, RI. The Planning Board feels that the applicant presents a realistic sighting of a monopole. Based on a site visit, the TRC identified several existing structures close to or over the proposed 100 foot height request. The TRC noted the existence of the State Police towers to the south of the site, the Twin River building and associated parking light poles to the southwest, and the tall existing light poles at the CCRI campus located north of the site. The Planning Board feels that due to these existing structures and the fact that the tower is proposed to be located in a unique commercial recreational zone, that the use variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Use Variance for height relief of a 100 foot flagpole type monopole telecommunications tower for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Planning

Board recommends Approval of this application for a use variance for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use. The Planning Board feels that the applicant presents a realistic sighting of a monopole. Based on a site visit, the TRC identified several existing structures close to or over the proposed 100 foot height request. The TRC noted the existence of the State Police towers to the south of the site, the Twin River building and associated parking light poles to the southwest, and the tall existing light poles at the CCRI campus located north of the site. The Planning Board feels that due to these existing structures and the fact that the tower is proposed to be located in a unique commercial recreational zone, that the use variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Dimensional Variance for height relief for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Members of the Technical Review Committee visited the site and

reviewed the submitted project plans and application. The Planning Board recommends Approval of this application for a height relief for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use. The Planning Board feels that the applicant presents a realistic sighting of a monopole and proposes the least amount of relief needed. Based on a site visit, the TRC identified several existing structures close to or over the proposed 100 foot height request. The TRC noted the existence of the State Police towers to the south of the site, the Twin River building and associated parking light poles to the southwest, and the tall existing light poles at the CCRI campus located north of the site. The Planning Board feels that due to these existing structures and the fact that the tower is proposed to be located in a unique commercial recreational zone, that the height variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Metro PCS, Mass. LLC, 285 Billerica Road, Chelmsford, MA/Lime Rock Fire District, 1085 Great Road, Lincoln, RI – Application for Dimensional Variance seeking rear yard relief for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use for property located at 20 Twin River Road, Lincoln, RI.

AP 42, Lot 49 Zoned: CR 2

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Planning Board recommends Approval of this application for a dimensional variance of rear yard relief for the installation of a 100 foot flagpole type monopole telecommunications tower and associated equipment as accessory use. The Planning Board feels that the applicant presents a realistic sighting of a monopole and proposes the least amount of relief needed. The proposed monopole is tucked in the rear of the property so that the base equipment will not be seen from the street. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan

Chair read into the record Area of Planning Concern Committee recommendation:

Metro PCS, Mass.LLC. 285 Billerica Road, Chelmsford, MA/St. James Church Corp., 33 Division Street. Manville, RI – Applications for Use Variance (tower), Use Variance (CR-2), Dimensional Variance for height, and a Dimensional Variance for the rear yard setback for a wireless communication facility on property located at 20 Twin River Road, Lincoln, RI

AP 42, Lot 49 Zoned: CR-2

Members of the Area of Planning Concern Committee visited the site

and reviewed the submitted plans and applications. The APC held a public meeting on the application on March 17, 2009. The proposed project represents the installation, operation and maintenance of a new 100 foot monopole wireless communications facility on the property. The applicant is proposing to install the wireless communications facility behind the existing Fire Station. All supporting equipment will be located on the ground at the base of the monopole.

Based on a site visit and the public hearing, the APC finds that the proposed telecommunication installation will not alter the general character of the surrounding area and is compatible with the neighboring land uses. The APC saw several towers within the general location of the proposed monopole. The towers that were noted are the State Police towers, Twin River parking lot light poles and the height of the overall building, and lighting poles at the Community College of Rhode Island. Therefore, the Area of Planning Concern committee voted 5 to 0 to send a positive recommendation that the proposed wireless communication facility is compatible with the neighboring land uses. The APC then made recommendations for physical construction of the facility if approved. The recommendations are as follows:

1. The Monopole shall be painted a light blue to blend into the sky.
2. There shall be no flag installed on the monopole.
3. The foundation of the proposed 100 foot monopole shall be designed and installed to accommodate a 120 foot monopole if the

need to extend the pole to hold another carrier arises in the future.

4. There shall be evergreen landscaping installed along three sides of the facility.

In Favor:

John Isherwood, Chair Board Fire Commissioners

This proposal was submitted last spring with approval of the Fire Commissioners Board.

No opposition present.

Board discussion:

Chair stated applications before the Board were reasonable and there is a need for service in this area. Member Trabulsi was concerned about the blue pole color and flying American flag on the pole and possibly include a restriction on pole color. Member Blais stated concern about pole color and flying a flag irrelevant to the application.

Chief Frank M. Sylvester

He has been at the Twin River Road station for 20 years and takes pride in that the grounds are impeccably maintained. He will ensure esthetics of the pole and flag will blend into the station appearance.

Motion made by Member Blais based on findings of fact to approve application for Use Variance for the installation of a 100 foot flagpole

type monopole telecommunications tower and associated equipment as accessory use in Zone A of CR 2 for property located at 20 Twin River Road, Lincoln, RI. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.**

Motion seconded by Member Blais. Motion carried 4-1 with Members Blais, Gobeille, DeAngelis and Karampetsos voting aye and Member Trabulsi voting nay.

Motion made by Member Blais based on findings of fact to approve application for Use Variance for height relief of a 100 foot flagpole type monopole telecommunications tower for property located at 20 Twin River Road, Lincoln, RI incorporating all reasons from the above use Variance application.

Motion seconded by Member Blais. Motion seconded by Member Gobeille. Motion carried 4-1 with Members Blais, Gobeille, DeAngelis and Karampetsos voting aye and Member Trabulsi voting nay.

Motion made by Chair Karampetsos to approve Dimensional Variance application seeking 60 foot rear yard setback for the installation of a 100 foot flagpole type monopole telecommunications tower. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property.**

Motion seconded by Member Blais. Motion carried with a 5-0 vote.

Motion made by Member Blais to adjourn the meeting. Motion seconded by Member DeAngelis. Motion carried with a 5-0 vote.

Respectfully submitted

Ghislaine D. Therien

Recording Secretary